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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

FABIOLA FRAGOSO, individually;

Plaintiff,

vs.

WAL-MART, INC., a foreign corporation;
DOE EMPLOYEES; DOE MANAGERS;
DOES I – XX, inclusive; and ROE
CORPORATIONS I – XX, inclusive,

Defendants.

Case No.: 2:22-cv-01507-CDS-EJY

**STIPULATION AND ORDER TO
EXTEND DISCOVERY PLAN AND
SCHEDULING ORDER**

(SECOND REQUEST)

Plaintiff FABIOLA FRAGOSO, by and through her counsel of record, BRADLEY S. MAINOR, ESQ., JOSEPH J. WIRTH, ESQ., and ASH MARIE BLACKBURN, ESQ., of MAINOR WIRTH, LLP, and Defendant WAL-MART, INC., by and through its counsel of record, KURT R. BONDS, ESQ, and TANYA M. FRASER, ESQ. of HALL & EVANS, LLC, hereby submit the instant Stipulation and Order to Extend the Discovery Plan and Scheduling Order (First Request) pursuant to LR IA 6-1 and LR 26-3 as follows:

I.**PROCEDURAL HISTORY**

This lawsuit involves allegations that Plaintiff FABIOLA FRAGOSO (hereinafter “FRAGOSO”) suffered serious injuries related to a slip and fall on Defendant’s premises.

On June 30, 2022, Plaintiff filed her Complaint against Defendant WAL-MART, INC. with the Eighth Judicial District Court for Clark County, Nevada. On September 31, 2022, Defendant WAL-MART, INC filed its Answer denying Plaintiffs’ allegations and denying all liability for the injuries.

On September 8, 2022, Plaintiff filed her Request for Exemption from Arbitration in which she outlined her claimed injuries and alleged damages. On September 12, 2022, Defendant WAL-MART, INC. filed its Notice of Removal and removed the matter to this Court based on diversity jurisdiction. On September 15, 2022, Defendant WAL-MART, INC. filed its Statement Regarding Removal. The parties participated in the Fed. R. Civ. P. 26(f) conference on October 12, 2022, and filed their proposed Joint Discovery Plan and Scheduling Order which was entered by this Court on October 27, 2022.

II.**DISCOVERY COMPLETED**

To date, Plaintiff has completed the following discovery:

- Plaintiff’s FRCP 26 Initial Disclosure, served October 26, 2022;
- Plaintiff’s First Set of Interrogatories to Defendant WAL-MART, INC., served December 12, 2022;
- Plaintiff’s First Set of Requests for Production to Defendant WAL-MART, INC., served December 12, 2022;
- Plaintiff’s First Supplemental FRCP 26 Disclosure, served March 3, 2023;
- Plaintiff’s Second Supplemental FRCP 26 Disclosure, served March 13, 2023;
- Deposition of Dana James on March 21, 2023;

- Plaintiff's Third Supplemental FRCP 26 Disclosure, served April 25, 2023;
- Deposition of David Rosas on April 27, 2023;
- **Plaintiff's Fourth Supplemental FRCP 26 Disclosure, served June 29, 2023.**

To date, Defendant WAL-MART, INC. has completed the following discovery:

- Defendant's FRCP 26 Initial Disclosure, served October 28, 2022;
- Deposition of Fabiola Fragoso on April 26, 2023;
- Defendant's Answers to Plaintiff's First Set of Interrogatories, served February 17, 2023;
- Defendant's Responses to Plaintiff's First Set of Requests for Production, served on February 17, 2023;
- Defendant's First Supplemental Responses to Plaintiff's First Set of Requests for Production, served on March 3, 2023;
- Defendant's First Supplemental FRCP 26 Disclosure, served March 3, 2023;
- Defendant's Second Supplemental FRCP 26 Disclosure, served April 12, 2023;
- **Defendant's Responses to Plaintiff's Second Set of Requests for Production, served July 14, 2023;**
- **Defendant's Third Supplemental FRCP 26 Disclosure, served July 14, 2023.**

III.

DISCOVERY REMAINING TO BE COMPLETED

- Deposition of Defendant WAL-MART, INC.'s corporate representative;
- Depositions of Plaintiff's treating providers;
- Initial expert designations;
- Rebuttal expert designations;
- Depositions of Initial and Rebuttal Experts;
- Inspection of the subject floor and surrounding area;

- Inspection of drainage systems;
- Additional written discovery.

This is a complex premise liability claim. Once the parties embarked on discovery, they have been able to move this matter forward with the appropriate diligence. As detailed above, some initial discovery has been completed, including the exchange of initial disclosures, fact witness depositions, party depositions and the securing of independent copies of Plaintiff's medical records. Plaintiff is in the process of retaining experts who will require site inspections. This may take some time as the facts surrounding this incident are somewhat unique. Plaintiff also anticipates additional discovery being necessary after taking the deposition of Defendant's corporate representative pursuant to NRCP 30(b)(6). In addition, defense counsel's law firm closed and this matter is being transferred to a new firm, Hall & Evans, LLC.

The parties have been communicating diligently to schedule site inspections, but it has proven to be more difficult than anticipated. Multiple meet and confers have gone forward regarding the scope of the inspection. After numerous revisions, the parties have finally agreed on the proper scope for the inspection to go forward. Now, the parties are tasked with scheduling around the calendars of multiple experts as well as counsel for each party. This has also proven to be difficult. The inspection is tentatively set for the end of August. However, the experts need time to analyze the data and procure reports based on the same. As such, more time is required.

With the current discovery deadlines rapidly approaching and a fair amount of discovery yet to be completed, the Parties have agreed to a sixty (60) day discovery extension to complete the remaining discovery as well as any necessary motion practice.

IV.

PROPOSED DISCOVERY SCHEDULE AND TRIAL DATE

	<u>Current Date</u>	<u>Proposed Date</u>
Discovery Cut-Off:	10/30/2023	12/29/2023
Motions to Amend Pleadings / Add Parties:	08/01/2023	10/02/2023

Initial Expert Disclosures:	09/01/2023	10/31/2023
Rebuttal Expert Disclosures:	09/01/2023	10/31/2023 11/30/2023
Dispositive Motions:	11/29/2023	01/29/2024
Joint Pre-Trial Order:	01/05/2024	03/06/2024

This is the second request for an extension of time in this matter and no trial date will be impacted by the extension as no such trial date has been set.

The parties submit that the reasons set forth above constitute good cause for the requested extension.

Dated this 7th day of August, 2023.
HALL & EVANS, LLC

DATED this 7th day of August, 2023.
MAINOR WIRTH, LLP

/s/ Kurt R. Bonds

/s/ Ash Marie Blackburn

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ORDER

IT IS SO ORDERED.

DATED this 8th day of August, 2023.


UNITED STATES MAGISTRATE JUDGE